OL XIV. NO. 2861.

HONOLULU, HAWAIIAN ISLANDS, MONDAY, SEPTEMBER 7, 1891.

PRICE 5 CENTS.

TER DAILY

Junius Except Sundays,

mene Court of the Hawaiian Islands. In Banco.

TERM, 1891.

eletment charging the dewith an assault with a obviously and imminently as to life upon one Chin on the 8th April, 1891, in . Island of Oahu, was pregainst him, the defendant, first day of the term. The ent was signed by the Attoreral and a true bill found listice Dole presiding at the The defendant demurred to the Peace. reliction and submits that ar had and has no right to me bill against the defenin this cause does not appear records or files herein nor appear that the offense is said indictment is of a er or quality such as gives and authority to hear or try Endant upon said charge. a was overruled and excep then and brought to this

the Penal Code, Section 8 of IX, the offense of assault or and battery with a knife, ane or other weapon obviangerous to life is punish-Time not exceeding \$500 and sument at hard labor not exgive years. By Chapter LII. Penal Code the Police Court strict Courts have jurisdicthe prosecution, trial and to punishment of any perlarged, inter alia, with "any asand battery coming under the

allows that the Supreme Court The general law jurisdiction tase. The requisites of the to commitment, presentation

and Circuit Courts of all letaracter the Police and Dis-Courts may punish the offender ane not exceeding two hundollars and by imprisonment San Francisco. and labor not exceeding two that in cases where such punwould be inadequate, the ershall be committed for trial ting to existing provisions of

is thus made optional with the courts either to take jurisdicand proceed to judgment if it the offense to be not a highly commit described the commit is a state of the committee of th a character that the punishand is authorized to inflict would redequate. In this case the state has committed for trial. declined to entertain sumprisdiction. There arises conclusive presumption of the magistrate has found be of such a nature that belong of two hundred dollars imprisonment at

Mahor would be inadequate punhis not necessary that he should so certified in his transcript of endence upon which the comsent is founded, which he is reat to send to the Attorney-Gen-This transcript has been re-

This transcript has been said in the Court to which the hast be borne in mind that the and Circuit Courts have criminal juri detion coexwith the jurisdictions for they are created, and the legis-

deadly weapons has not taken this jurisdiction away, but has conferred a concurrent jurisdiction over them upon the lower Courts where the assault is not of a highly aggravated

character. See Naihe v. Kuau, 4th Haw., 297. It is not essential that it appear in the indictment that the accused has been committed for trial. This is a matter for the presiding Justice when examining the indictment presented to him for allowance.

If it should appear on the trial of the indictment that the offense was not of a highly aggravated character and that the Police Justice might well have taken summary jurisdic-tion of it, this would not oust the Supreme Court of its concurrent jurisdiction. In such a case the defendant would not be prejudiced, for the presiding Justice, in the exercise of his discretion over the punishment, would be authorized to impose a penalty within the limits of the jurisdiction of the Police Court. The case cited by defendant's

counsel, State v. Hilton, 22 N. H., 285, is not in point. There the indictment left out the word "knife," so as the Court say, "all that part of | the indictment which went to make the offense an aggravated assault committed with the knife should be rejected as surplusage. The indictment was thereby left as one for a simple assault and battery and falling within the jurisdiction of a Justice of the Peace to try." Upon the statutes of New Hampshire, the Court held that before the Court of Criminal Pleas could take cognizance of an indictment for an assault and battery, it must appear that respondent had been arrested, brought before a Justice of the Peace and bound over to appear at the succeed-ing term of the common pleas, and that it was the intention of the statute to confine the trial of common assaults and batteries to Justices of

In our case the jurisdictional facts are set forth in the indictment, for an offense is there set out of which the Supreme Court to isdiction, and in all such cases the proceeding is by indictment upon a commitment by a Police or District Justice. This part of the procedure

And machinery of every description made to order. Particular attention paid to ships' blacksmithing. Job work executed on the shortest 2728 it is not necessary to set out in the indictment any more than the fact that the accused was arrested for the offense upon a warrant issued upon sworn information.

We overrule the plea.
Attorney-General Whiting for the
Crown; Ashford & Ashford for defendant.

Honolulu, August 12th, 1891.

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LEAVE

SAN FRANCISCO. HONOLULU.

ARRIVE

-1					20
	Zealandia	July 28			4
	Australia	Aug. 11	****	Aug. 1	8
1	Alameda	Aug. 20		Aug. 2	7
-	Zealandia	Aug. 25			1
1	Australia	Sept. 8		Sept. 1	
1	Mariposa	Sept. 17	1074	Sept. 2	
	Zealandia	Sept. 22		Sept, 2	
	Australia	Oct. 6			3
1	Monowai	Oct. 15			2
1					
		LEAVE	ARRIVE		
	STEAMER.	HONOLUBU.	SAN	FRANCISCO	٥.
1	Zealandia	Aug. 11		Aug. 1	8
-	Australia	Aug. 25			1
1	Mariposa	Aug. 27		Sept.	3
	Zealandia	Sept. 8			15
П	Australia	Sept. 22			29
	Monowai	Sept. 24		Oct.	1
1	Zealandia	Oct. 6			13
	Australia	Oct. 20			27
d	Alameda	Oct. 22			29
1	Zealandia	Nov. 3			10
	Australia	Nov. 17	****		24
	Marinosa	\$7 \$10 \$3.00 EXT\$ 0		THE PARTY OF THE P	
	Mariposa	Nov. 19		Nov.	26

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2690-3m



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